

DEPARTMENT OF SOCIAL SERVICES

744 P Street
Sacramento, CA 95814



February 2, 1987

ALL COUNTY LETTER NO. 87-20

TO: All County Welfare Directors
All Public and Private Adoption Agencies
All SDSS Adoption District Offices

SUBJECT: Assembly Bill 4272 (Chapter 1345, Statutes of 1986)

REFERENCE: Supersedes ACL 80-42

Assembly Bill 4272 (Chapter 1345, Statutes of 1986), effective January 1, 1987, amends Section 226.55 of the Civil Code and its major provisions are as follows:

1. The State Department of Social Services (SDSS), local public adoption agencies, and licensed private adoption agencies shall require fingerprinting and a criminal record clearance from an appropriate law enforcement agency for all persons, including stepparents, who file an application or a petition to adopt a child after January 1, 1987. For example, if an application has been filed in an agency adoption but the petition is filed after January 1, 1987, the fingerprinting and criminal record clearance shall be required. The criminal record clearance must be obtained before adoption may be recommended in the required report to the court.
2. The Department and the agency are required to determine whether the person has ever been convicted of a crime other than a minor traffic violation. This will be done by securing from the appropriate law enforcement agency the full criminal record of that person.
3. Any fee charged by a law enforcement agency for fingerprinting or for checking and obtaining the criminal record shall be paid by the applicant or petitioner.
4. The SDSS or the adoption agency may defer, waive, or reduce the fee when its payment would cause economic hardship to the adoptive parents which would be detrimental to the welfare of the child, when the child has been in the foster care of the adoptive parents for at least one year, or if necessary for the placement of a special needs child.

5. The criminal record must be taken into consideration when evaluating prospective adoptive parents. An assessment regarding how the past criminal behavior might affect the applicant's ability to provide proper care for the child must be included in the report to the court.

PROCEDURES

Regulations are being developed by SDSS to interpret and implement the amended statute as described below. Until the regulations are in effect, we recommend that public adoption agencies obtain criminal record clearances from both State and federal agencies, which are California files in the State Department of Justice (DOJ) and the records of the Federal Bureau of Investigation (FBI). Our interpretation of the statute, to be incorporated in the proposed regulations, is that the DOJ and the FBI are the appropriate law enforcement agencies from which to obtain criminal record clearances in all adoption cases whether done by public or private agencies. At the present time, however, the FBI will not release criminal records to private adoption agencies. Thus temporarily, private agencies should request records only from the DOJ. We are attempting to resolve this issue with the FBI and will notify you of any change in this procedure. The final procedure will also be reflected in regulation.

Further details about the procedures below are provided in DOJ's Applicant Manual, available at no cost from the Bureau of Criminal Identification at the address given below. We and the DOJ encourage you to obtain a copy for your use.

Fingerprinting

Fingerprinting cards (BID-7) can be ordered at no charge from the Department of Justice Bureau of Criminal Identification (BCID), P. O. Box 903417, Sacramento, CA 94203-4170, Attention: Applicant Control Unit, or call (916) 739-5140, ATSS 497-5140. A BID-7 form and its instructions for completion are enclosed herein. The DOJ requests that you order a six-month supply with each request. The BCID will not accept previously processed fingerprint cards or a xerox or photocopy of fingerprint impressions.

Applicants/Petitioners can take the fingerprint cards to most local law enforcement agencies, California Department of Motor Vehicles field offices, or private vendors for the fingerprinting service. A small fee is normally charged. The agency may also do its own fingerprinting. Training materials, including a video tape, are available from the BCID, Fingerprinting Training Program, (916) 739-2786 or ATSS 497-2786. The completed

fingerprint card is then returned to your office for batch submittal to the DOJ. All required information should be typed or printed in black ink.

DOJ Instructions for the Submittal of Fingerprint Cards

For public agencies and SDSS district offices to obtain both State and FBI criminal record clearances, the DOJ requires that you submit two BID-7 applicant fingerprint cards for each applicant/petitioner accompanied by \$31.50. One card will be used for State level clearance (\$17.50) and the other card will be used for the FBI clearance (\$14.00). Staple the two cards together in the upper left-hand corner. (Private agencies send only one card and \$17.50 for the State-level clearance.) Also include a transmittal letter that requests the desired clearance(s). Agencies which have not arranged for a monthly billing service should enclose a check or money order with each card or group of cards, made payable to "California Department of Justice." Do not send cash.

Fees and Billing

The statute provides that the costs for completion of the fingerprint card and the subsequent criminal record check shall be borne by the applicant/petitioner except under specified circumstances. If SDSS or an adoption agency defers, waives or reduces the fee, regulations will require that justification be entered into the case record.

Fees which are paid by the county are reimbursable and should be entered as an overhead cost in the quarterly Administrative Expense Claim on form DFA 325.1, line K, Operating Costs. Fees paid by private agencies for special needs children are reimbursable through the Private Agency Reimbursement Program (AB 3168, Campbell) under Additional Direct Costs.

The fees stated herein are applicable to the 1986/87 fiscal year and may be modified as processing costs change. If you do not wish to submit the fee with each request, monthly billing for the processing of cards may be arranged by contacting the Department of Justice's Central Services billing office at (916) 739-5470, ATSS 497-5470.

Processing Time

The average processing time for applicant fingerprint card clearances is from 21 to 28 days. Information concerning current response time can be obtained by contacting the Applicant Control Unit of DOJ at (916) 739-5140, ATSS 497-5140.

Criminal Record Storage

Since criminal record information (rap sheet) is confidential, the DOJ requires that it be stored in a "secure area." This is interpreted to mean that rap sheets are part of the case record and are to be secured in a locked filing cabinet. Information regarding security and release of criminal history information may be obtained by contacting Mr. Chuck Bridges, Manager, Criminal Records Security Unit, Department of Justice, P. O. Box 903417, Sacramento, CA 94203-4170, (916) 739-5006, ATSS 497-5006.

Use of the Criminal Record

The law requires that, "The record, if any, shall be taken into consideration when evaluating a prospective adoptive parent, and an assessment of the effects of his or her criminal history on the ability of the prospective adoptive parent to provide adequate and proper care and guidance to the child shall be included in the report to the court." We encourage you to obtain a copy of the California Penal Code in order to understand what the California criminal records mean. Questions regarding charges on a federal rap sheet may be addressed to the Department of Justice.

Questions regarding this ACL may be addressed to your Adoptions Program Consultant at (916) 322-5973, ATSS 492-5973. Questions concerning fee reimbursement should be referred to the SDSS Fiscal Policy and Procedures Bureau, (916) 445-7046, ATSS 485-7046. Questions regarding specific DOJ procedures may be directed to the appropriate unit as specified in the body of this letter.



LOREN D. SUTER
Deputy Director
Adult and Family Services Division

Enclosure

cc: CWDA

JJ

DO NOT FOLD THIS CARD
(TYPE OR PRINT ALL INFORMATION REQUESTED)

APPLICATION FOR EMPLOYMENT

<input type="checkbox"/> PEACE OFFICER (830 PC) <input type="checkbox"/> CRIMINAL JUSTICE EMPLOYEE <input type="checkbox"/> STATE EMPLOYEE <input type="checkbox"/> CITY/COUNTY EMPLOYEE <input type="checkbox"/> SCHOOL EMPLOYEE <input type="checkbox"/> OTHER EMPLOYEE	EMPLOYING AGENCY AND ADDRESS: <hr/> POSITION TITLE:	<input type="checkbox"/> THIS EMPLOYMENT TITLE IS EXEMPT FROM THE PROVISIONS OF SECTION 432.7 OF THE CALIF. LABOR CODE. PLEASE CITE STATUTE OR OTHER REASON FOR EXEMPTION.
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APPLICATION FOR LICENSE, PERMIT OR CERTIFICATION

APPLICATION FOR: <input type="checkbox"/> LICENSE <input type="checkbox"/> PERMIT <input type="checkbox"/> CERTIFICATION <input type="checkbox"/> CCW LICENSE <input checked="" type="checkbox"/> OTHER (SPECIFY) <i>Adoptions</i>	ISSUING AGENCY AND ADDRESS: <hr/> LICENSE-PERMIT-CERTIFICATION TITLE:	
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PERSONAL INFORMATION

APPLICANTS RESIDENCE ADDRESS:

State of California
Department of Justice
Bureau of Criminal Identification
P.O. Box 13417
Sacramento, CA 95813-4417

APPLICANT

LEAVE BLANK

TYPE OR PRINT ALL INFORMATION IN BLACK
LAST NAME NAM FIRST NAME MIDDLE NAME

FBI LEAVE BLANK

SIGNATURE OF PERSON FINGERPRINTED

ALIASES AKA

ORI

CA0349400

DEPT OF JUST

BU OF IDENT

SACRAMENTO, CA

DATE OF BIRTH DOB
MONTH DAY YEAR

DATE

SIGNATURE OF OFFICIAL TAKING FINGERPRINTS

CONTRIBUTING AGENCY AND ADDRESS:

DRIVERS LICENSE NO. DOL

SEX

HGT.

WGT

EYES

HAIR

PLACE OF BIRTH POB

State Department of Social Services

Adoptions District Office

2400 Glendale Lane, Suite G

Sacramento, CA 95825

YOUR NO. OCA

FBI NO. FBI

STATE ID NO. SID

SOCIAL SECURITY NO. SOC
VOLUNTARY - FOR ID ONLY

LEAVE BLANK

CLASS

REF.

INFORMATION PROVIDED ON THIS FORM MAY BE COMPUTERIZED
IN LOCAL, STATE AND FEDERAL FILES.

DATE FINGERPRINTS SUBMITTED

1. R. THUMB

2. R. INDEX

3. R. MIDDLE

4. R. RING

5. R. LITTLE

6. L. THUMB

7. L. INDEX

8. L. MIDDLE

9. L. RING

10. L. LITTLE

LEFT FOUR FINGERS TAKEN SIMULTANEOUSLY

L. THUMB

R. THUMB

RIGHT FOUR FINGERS TAKEN SIMULTANEOUSLY

Front of Card

1. Type or print full name of applicant. Provide applicant's maiden name, if applicable.
2. The BID-7 (Rev. 2/82) fingerprint card is preprinted with Bureau of Criminal Identification as contributor. Do not place a stamp or write over this area.
3. In box marked "Agency and Address", indicate agency authorized to receive a reply. Provide complete mailing address.
4. In box marked "Submitting Agency No.", indicate the appropriate reference or file number. (For use by contributing agency.)
5. Specify month, day, and year fingerprinted.
6. Type or print complete physical description, date of birth, and place of birth.
7. Both the applicant and person taking fingerprints should sign card.
8. If CII and/or FBI numbers are known, please indicate in the appropriate boxes.
9. Please indicate the date the fingerprint card was submitted to BCID for processing. The BID-7 (2/82) fingerprint form has a space provided for this information.

Back of Card

The below listed data elements must be completed on each applicant card. (See examples on Page 16.)

APPLICATION FOR EMPLOYMENT

1. Check the appropriate box indicating the type of employment clearance.
2. Specify in the "Employing Agency and Address" box the complete name and mailing address of agency where the applicant will be employed.
3. Specify in the "Position Title" box the employment title assigned to the applicant (e.g., Clerk Typist, Accountant, Janitor, Dispatcher, etc.).
4. California Labor Code (CLC) 432.7 prohibits the use of arrest information not resulting in a conviction for employment clearances except for peace officers (432.7(d) CLC); criminal justice employees (432.7(d) CLC); and some employees of health care facilities (432.7(e) CLC). All employment clearances not covered by a specific exemption will receive a record reply in accordance with Section 432.7 CLC (only arrest information resulting in a conviction).

5. If applicant fingerprint forms other than BID-7 are used for employment clearances, the information required regarding Section 432.7 CLC must be provided on the form.

APPLICATION FOR LICENSE, PERMIT, OR CERTIFICATION

1. Check the appropriate box to designate if the applicant is applying for a license, permit, or certificate.
2. Specify in the "Issuing Agency and Address" box the agency having regulatory control over this process if different from agency listed on front side of form. This area may also be used to identify a business name and address.
3. Specify license, permit, or certification title in area designated (e.g., Taxi Cab permit, Masseuse, Solicitors permit, etc.).
4. California Case Law (Central Valley v. Younger 1979, 157 Cal. Rptr. 117, 95 CA. 3d 212) prohibits this Department from disseminating arrest information not resulting in a conviction for most licensing and certification clearances. If you need more information regarding this restriction, please contact the Applicant Control Unit at (916) 739-5140, ATSS 8-497-5140.

PERSONAL INFORMATION

1. Applicants for employment in a public utility company, or a youth organization must provide their mailing address. These individuals will receive a copy of the criminal history record information released to their employer.

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ADDITIONAL INFORMATION

1. Do not place any marking, stamps, etc., in the area designated for fingerprints (except to note amputated or deformed fingers). To do so may cause the fingerprint card to be rejected.
2. Do not use any previously submitted fingerprint card for submission to this Bureau. The applicant must be reprinted for each record check.
3. Any fingerprint card returned bearing a reject letter may be corrected by the Contributor and returned directly to BCID. PLEASE KEEP ALL REJECTION MATERIAL ATTACHED TO THE CORRECTED COPY.
4. BCID has discovered applicant fingerprint cards where deliberate attempts were made to conceal the existence of criminal records. In these cases, the applicant solicited another individual to be fingerprinted using the applicant's identification.

It is the Contributing Agency's responsibility to ensure that data submitted is accurate. BCID urges that photo identification be used to verify identity at the time that fingerprints are affixed to the card.

For further information, contact the Applicant Control Unit, Record Inquiry Section, at (916) 739-5140, ATSS 8-497-5140.

